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FISCAL IMPACT REPORT

SPONSOR Stapleton ORIGINAL DATE 2/13/06
 LAST UPDATED _____ HB 640

SHORT TITLE Seasonal Public Employee Service Credits SB _____

ANALYST Geisler

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY06	FY07	FY08		
	NFI			
	See Narrative			

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files
 Public Employees Retirement Association (PERA)

SUMMARY

Synopsis of Bill

House Bill 640 amends the Public Employees Retirement Act to allow a PERA member who was employed by the legislative branch during a regular session of the legislature and who did not acquire service credit because he or she was designated as a seasonal employee to purchase the service credit associated with legislative period of employment.

FISCAL IMPLICATIONS

As HB 640 requires the member to pay the purchase cost for the service credit it will probably have a minimal fiscal impact and is properly funded as required by Article XX, Section 22 of the New Mexico Constitution. It is not known at this time how many PERA members will request to purchase service credit under HB 640.

SIGNIFICANT ISSUES

PERA has identified a number of policy issues with House Bill 640:

1) Unequal treatment of seasonal employees.

HB 640 provides for the purchase of service credit for a narrowly defined group of PERA members formally designated by their employer as excluded from membership. This conflicts with the general concept of a defined benefit plan that similarly situated members should earn and receive similar benefits. PERA members who were designated as “seasonal” employees in other capacities are not eligible to purchase service credit for such periods of excluded employment.

2) Service credit purchase provision conflicts with current statute.

HB 640 as written would allow a PERA member to accrue more than one month of service credit for service in a calendar month contrary to NMSA 1978, Section 10-11-4 (A). Specifically, HB 640 would allow a member to purchase 3 months of service credit for a 60-day session and 2 months of service credit for a 30-day session. This is contrary to how service credit is calculated pursuant to the PERA Act by providing for a “block” of service credit for a time period rather than calculating service credit on reported wages.

ADMINISTRATIVE IMPLICATIONS

The administrative impact on PERA will be in calculating the purchase cost and processing the added service credit. In addition, PERA will be required to amend its regulations to address the statutory changes to the PERA Act.

CONFLICT, DUPLICATION, COMPANIONSHIP OR RELATIONSHIP

HB 640 conflicts with the PERA Act [NMSA 1978, Section 10-11-4(B)(3)], which provides for mandatory PERA membership unless a statutory exemption exists. The PERA Act excludes from membership employees designated by their public affiliated employer as seasonal or student employees.

HB 640 conflicts with the PERA Act [NMSA 1978, Section 10-11-4], which provides that personal service rendered to an affiliated public employer by a member shall be credited to the member’s account in accordance with board rules and regulations. PERA Rule 2.80.600 NMAC provides that members who are full-time employees shall acquire one month of service credit for every calendar month in which the member is paid 50% or more of his or her monthly salary as reported by the member’s affiliated public employer. PERA Rule 2.80.600 further provides that members who are part-time employees shall acquire one month of service credit for every calendar month in which the member works 20 or more hours per week, totaling 40 or more hours in an 80-hour pay period. 2.80.600.10.A.2, 4 NMAC 2001. .

HB 640 as written would allow a PERA member to accrue more than one month of service credit for service in a calendar month contrary to NMSA 1978, Section 10-11-4 (A). Specifically, HB 640 would allow a member to purchase 3 months of service credit for a 60-day session and 2 months of service credit for a 30-day session. As stated above, this is contrary to how service credit is calculated pursuant to the PERA Act by providing for a “block” of service credit for a time period rather than calculating service credit on reported wages.

TECHNICAL ISSUES

HB 640 provides that, subject to certain conditions, a “member” employed by the legislative branch may purchase statutorily excluded service credit. The PERA Act [NMSA 10-11-1(M)] defines member as a “currently employed, contributing employee of an affiliated public employer, or a person who has been but is not currently employed by an affiliated public employer and who has not retired and has not received a refund of member contributions.” HB 640 will not address the targeted issue of legislative branch employees designated as seasonal workers who are not currently PERA members.

OTHER SUBSTANTIVE ISSUES

HB 640 provides for the purchase of service credit by PERA members who are employed by the legislature and are designated by their employer as excluded from membership. NMSA 10-11-3(B) specifically excludes “seasonal” employees from PERA membership. Once employment has been designated as “seasonal,” an employer does not remit contributions under any coverage plan for that employee. For example, in the case of retirees who return to work for the legislature, neither the employer or the reemployed retiree pay contributions because the worker is employed in a category of employment that is clearly excluded from PERA coverage under Section 10-11-8 (D)(2) of the PERA Act.

HB 640 proposes that legislative employees have the ability to purchase service credit if they did not receive service credit “solely because the affiliated public employer designated the employee as seasonal”. The PERA Act requires employees designated as seasonal employees be notified in writing of this designation and the consequences thereof with respect to PERA membership, service credit and benefits. NMSA 1978, Section 10-11-3(C).

HB 640 does not require a PERA member to be vested with five or more years of service credit to purchase legislative worker service credit. All other service credit purchases under the PERA Act are conditioned on the member’s vested status (including military, airtime, etc). It should be noted that unless the legislative worker is already a PERA member he or she will continue to be ineligible to purchase their excluded service credit under HB 640. As a result, certain legislative workers will not be able to take advantage of the service credit purchase provisions provided by HB 640.

HB 640 provides for the purchase of service credit for a narrowly defined group of PERA members formally designated by their employer as excluded from membership. HB 640 conflicts with the general concept of a defined benefit plan that similarly situated members should earn and receive similar benefits. PERA members who were designated as “seasonal” employees in other capacities are not eligible to purchase service credit for such periods of excluded employment.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL?

The PERA Act will continue to exclude seasonal employees from PERA membership. The PERA Act will continue to limit the purchase of optional service credit earned either through service to a public employer, military or as a prisoner of war.